

EX PARTE OR LATE FILED

DOCKET FILE COPY ORIGINAL



1850 M. Street N.W., Suite 1100
Washington, DC 20036

November 20, 1997

RECEIVED
NOV 20 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Salas, Esq.
Secretary
Federal Communications Commission
1919 M Street N.W., Room 222
Washington, D.C. 20554

Re: **Ex Parte Communication in CC Docket No. 94-129**

Dear Ms. Salas:

On November 19, 1997, Leon Kestenbaum and the undersigned of Sprint Corporation spoke by phone with Mr. Robert Spangler, Acting Chief of the Common Carrier Bureau's Enforcement Division about a complaint Sprint has received accusing it of slamming. Because the matters discussed touched upon issues that Sprint has raised in its pleadings in the above-referenced docket, Sprint is filing this ex parte notification.

In their conversation with Mr. Spangler, Messrs. Kestenbaum and Fingerhut reiterated the argument set forth in Sprint's comments in this docket that certain ILECs do not provide end users who call to complain that they have been slammed with accurate information. All too often the ILEC will inform the end user who was actually slammed by a switchless reseller that the switchless reseller's underlying interexchange carrier ("IXC") was responsible for the unauthorized conversion. In this manner, the ILECs are able to disparage the reputations of their current or soon-to-be competitors.

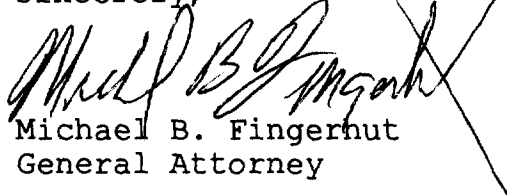
Several of the ILECs deny that they convey inaccurate information to end users in the manner suggested by Sprint. Yet, the complaint filed by Dennis and Gail Daly confirm Sprint's position. As set forth in the letter (copy enclosed) the Dalys were informed by Southwestern Bell that they had been slammed by

No. of Copies rec'd 0+1
List ABCDE

Magalie Salas, Esq.
November 20, 1997
Page 2

Sprint when in reality they had been slammed by a switchless reseller. They were even told incorrectly that they would receive a bill from Sprint for the service provided by the switchless reseller. Because of the misinformation provided by Southwestern Bell, the Dalys now believe that Sprint is somehow responsible for slamming them. Plainly, this complaint demonstrates the need for the Commission to act expeditiously to require the ILECs to convey accurate information to end users who have been slammed.

Sincerely,



Michael B. Fingerhut
General Attorney

Enclosure

c: Robert Spangler, Esq.
Kurt Schroeder, Esq.
Cathy Seidel, Esq.
Anita Cheng, Esq.



S O U T H E R N
M E T H O D I S T
U N I V E R S I T Y

October 11, 1997

Federal Communications Commission
Common Carrier Bureau
Consumer Complaints
Mail Stop Code 1600A2
Washington, DC 20554

Slamming Complaint:

Dennis and Gail Daly
3009 University Blvd.
Dallas, TX 75205
(214) 373-1604 (residential telephone slammed)
(214) 768-1873 (daytime phone at which we can be reached)

Dear Sirs:

On October 6th, my husband and I came home from work to find a message on our answering machine informing us that our long-distance company of nearly thirty years (AT&T) had been switched, "either with our authorization or that of the switching company". There was no further explanation of what had happened, nor was there any indication of what new company would now provide our long distance service.

We immediately called our local provider (Southwestern Bell), asked them what was going on, and were told that our new long-distance company was Sprint. We informed them that we had not authorized any change in our long-distance service, that we were very happy with AT&T, and that we wanted AT&T to continue to be our long-distance provider. SWB replied that they could switch us back, but that there would be a "change fee" unless we worked things out with AT&T.

We then called AT&T (on "hold" for 1-1/2 minutes) to make sure that we had been reinstated with them and to explain what had happened. The AT&T representative immediately assured us that there would be no change fee, since we had not authorized the initial switch, and that we had been the victims of unscrupulous "slammers".

Angry by this time, we then called Sprint, where we were put on "hold" for 45 minutes (reason enough to explain our loyalty to AT&T) and finally spoke to Mr. Tony Siva. Mr. Siva informed us that we had not, in fact, been switched to Sprint, but had been switched by a Sprint reseller – some company called J. Mart or Jaymart, it appeared – although he said the reseller

might have actually resold our account to yet another party, since they frequently do so. Consequently, he couldn't tell us with any certainty exactly who had hijacked our long-distance business. When we inquired how Sprint could allow this to happen, he blithely informed us that Sprint leases their lines to a lot of small resellers and is not responsible if those companies act unethically or even illegally. He gave us the address of Sprint's Consumer Service Residential Group if we cared to register a complaint but, astonishingly, informed us that the division had no telephone number and could only be contacted by letter!

When we called the number Mr. Siva gave us for J. Mart (1-888-256-8381), we discovered that, even during business hours the next day, the number connects only to a recording, which provides neither the name of the company (it just says "Thank you for calling. Please leave your name and number and we'll call you back.") nor a human being. Reluctant to provide these pirates with our phone number once again, we did not leave a message.

All in all, my husband and I spent over 2-1/2 hours on the phone the evening of October 6th (his birthday, by the way), trying to untangle this mess and return our telephone service to the status it had held for nearly thirty years. Now Southwestern Bell informs us that we will receive a bill from Sprint (aka J. Mart, or whatever), since our service was in fact switched on September 30th, even though we were not notified until October 6th.

This situation stinks. How can Sprint disclaim any responsibility for the actions of companies to whom it leases its lines? How can some fly-by-night company set up shop with only a recording, and hijack our telephone service without our authorization? How can Southwestern Bell be permitted to wait a week to inform us that our service has been changed? And how can my husband and I be forced to pay a company (Sprint) that behaved in such an unethical manner – a company with which we have never contracted for services? Southwestern Bell informed us that, unless we pay all charges accrued during September 30th - October 6th, our credit rating will be ruined forever. Is this fair?

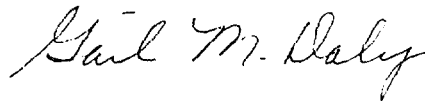
It doesn't take a rocket scientist to figure out that whatever company that is at the other end of 1-888-256-8381 can make a pretty penny by slamming large numbers of telephone numbers, relying on inertia to secure a certain percentage of them as long-term customers, and squeezing blood money for one week of service from those smart enough, patient enough, and stubborn enough to take the 2-1/2 hours to change the service back where it belonged all along.

I hope you track down the company that did this to us (J. Mart, or whoever they are at 1-888-256-8381) and put them out of business. I also hope you find some way to hold Sprint accountable for the sleazy operators to whom they lease their lines and provide billing services and the veneer of respectability. And I hope you figure out some way to reimburse us for the 2-1/2 hours we lost setting this situation straight. I am an attorney/law professor who bills out at \$250/hour, and my husband is a hospital administrator who bills at \$100/hour. I figure someone – either J. Mart or Sprint – owes us \$875 for our time. This seems like a class action lawsuit just begging to be brought by some ambitious attorneys – perhaps I can turn it over to our law student clinic.

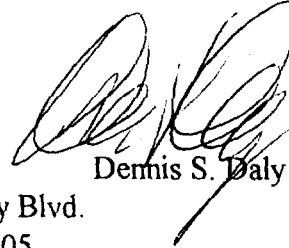
Meanwhile, we have secured a form from Southwestern Bell instructing them to refrain from changing our long distance service in the future unless they have written authorization from us. We have filed this formal complaint with you, and are copying executives with Southwestern Bell, AT&T, and Sprint. We are angry and outraged that this practice is permitted to continue and that Sprint seems to make a business out of making it possible for these sleazy companies to operate.

We appreciate your attention to this matter and await news of your investigation.

Sincerely,



Gail M. Daly



Dennis S. Daly

3009 University Blvd.
Dallas, TX 75205

cc: Sprint Consumer Service Residential Group
P.O. Box 152046
Irving, TX 75015-2046

Robert E. Allen, Chairman & CEO
AT&T Corporation
32 Avenue of the Americas
New York, NY 10013-2412

William T. Esrey, Chairman & CEO
Sprint Corp.
2330 Shawnee Mission Pkwy.
Westwood KS 66205

Dave Dorman
Southwestern Bell/SBC Communications
175 E. Houston
San Antonio, TX 78205-2233

Congressman Dick Armey
301 Cannon House Office Bldg.
Washington, D.C. 20515-4326

Senator Phil Gramm
370 Russell Senate Office Bldg.
Washington, D.C. 20510-4302